



California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Linda S. Adams
Secretary for
Environmental
Protection

Certified Mail: 70031680 0000 6174 8043

October 2, 2006

Mr. Farhad Mansourian, Director
Marin County Department of Public Works
3501 Civic Center Drive, Room 304
San Rafael, CA 94903

Dear Mr. Farhad Mansourian:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of Marin County Certified Unified Program Agency (CUPA) on September 12 and 13, 2006. The evaluation was comprised of an in-office program review and oversight field inspections. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, preliminary corrective actions, and timeframes. Two additional evaluation documents are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

The enclosed Evaluation Summary of Findings is now considered final and based on review, I find that Marin County CUPA program performance is satisfactory with some improvement needed. Since several of the identified deficiencies are minor, I am confident that these deficiencies can be easily addressed. To complete the evaluation process, please provide deficiency status reports to Cal/EPA of your progress toward correcting the identified deficiencies, using the format below. Submit your status reports to JoAnn Jaschke every 90 days, starting from the evaluation date. The first status report is due on December 12, 2006.

Cal/EPA also noted during this evaluation that Marin County CUPA has worked to bring about a number of outstanding local program innovations, including:

- Developing an outstanding new hire training program;
- Expanding their data management system to allow business plan information 24/7 available to Marin County Environmental Health HazMat team during emergency response to hazardous material spills or releases;
- Having a thorough process for tracking and documenting UST compliance; and

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- Alleviating the San Rafael transitional issues with a solid approach that has developed long term relationships with the businesses by providing excellent customer service, educational outreach, and technical assistance.

We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Johnson", with a stylized, flowing script.

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

Cc: See next page

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cc: Mr. Michael Frost, CUPA Manager (Sent Via Email)
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Rancho Cordova, California 95741-9047

Deficiencies and Corrective Actions

1. **Deficiency:** Brief description of deficiency
CUPA Corrective Action: CUPA responds here
2. **Deficiency:** Brief description of deficiency
CUPA Corrective Action: CUPA responds here
3. **Deficiency:** Brief description of deficiency
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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Marin County

Evaluation Date: September 12 and 13, 2006

EVALUATION TEAM

Cal/EPA: John Paine and JoAnn Jaschke
SWRCB: Marci Christofferson
OES: Brian Abeel
DTSC: Tom Asoo

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to JoAnn Jaschke (916) 323-2204.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	The CUPA's Unified Inspection and Enforcement Plan has not been updated as necessary. The CUPA has reviewed their plan and is in the process of finalizing the plan. However, the plan has not been updated for nearly 3 years. The CUPA is currently coordinating and consulting with the District Attorney and County Council to finalize the enforcement portion of their Plan. Additionally, the process for Administrative Enforcement Orders (AEOs) and a discussion of how the CUPA will expend at least 5% of their hazardous waste related resources to the oversight of Universal Waste handlers and silver-only generators have not been incorporated into the plan. CCR Title 27, Section 15200(f)	By April 1, 2007, the CUPA will finalize their Inspection and Enforcement Plan. The plan will be developed in consultation with County Counsel and the District Attorney. The plan will include all required elements, including the incorporation of the AEO process and Universal Waste handlers.
2	Although the permit includes the method of monitoring the tanks, it does not list the monitoring method(s) of the piping. The Unified Program Underground Storage Tank Permits to Operate is issued on an annual basis, after verification of compliance. CCR, Title 23, Section 2712(c)	The CUPA will amend the Permit to Operate for the UST Program to identify the method(s) for monitoring the piping during the next permitting cycle.

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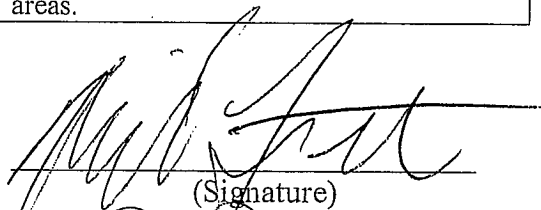
3	<p>Some of the UST forms viewed in the files were not the current version, and therefore not up-to-date with the reporting requirements. An application for a UST permit or a permit renewal shall be made on a standardized form.</p> <p>HSC Chapter 6.7, Section 25286(a)</p>	<p>The CUPA will have the facility owners/operators update to the most current forms (A&B) at time of the next inspection.</p>
4	<p>In several reviewed files, the Chief Financial Officer (CFO) letters were not current. Some financial responsibility mechanisms require annual submission of certain information.</p> <p>HSC Chapter 6.7, Section 25292.2.</p>	<p>The CUPA will require CFO letters, and other mechanisms, (if applicable) to be updated on an annual basis. The CUPA will begin addressing this requirement at the time of the next inspection.</p>
5	<p>The installation/modification application does not address the new construction requirements. Current tank installations require VPH monitoring, ELD testing, and secondary containment of sumps depending on piping construction, etc.</p> <p>CCR Title 23, Section 2635(d)(4)</p>	<p>The CUPA will update the installation/modification application to include discussion of the new standards and requirements by November 1, 2006.</p>
6	<p>The CUPA's area plans have not been reviewed and revised in the past three years; City of San Rafael May 2001 & Marin County April 2003. Recently this year, the CUPA absorbed the City of San Rafael CUPA programs, which includes the responsibility for the city's area plan. The CUPA began the process of revising their area plan in February 2006. They have an action plan for reviewing both area plans, updating information and incorporating the City of San Rafael's Area Plan into the Marin County Area Plan. The action plan consists of two phases: (1) review of and update information in both plans; (2) consolidate both plans and update information. The CUPA received an HMEP grant to cover 80% of the costs for phase one, which starts October 2006 and runs through September 2007. The CUPA intends to apply again for an HMEP grant to cover 80% of the costs for phase two, which will run October 2007 through September 2008.</p> <p>HSC Chapter 6.95, Section 25503 (d)</p>	<p>Provide copies of the HMEP quarterly reports with or provide summaries of the area plan review and revision status in the quarterly reports for status of corrections to deficiencies to Cal/EPA. Once the Area Plan is finalized, certify to Cal/EPA and OES that the review and revisions are complete and submit a copy of the finalized area plan to OES. If the CUPA does not finalize its area plan before the pesticide drift regulations mandated by SB 391 are finalized, the area plan will be subject to these revised regulations.</p>

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7	<p>The CUPA does not have a CalARP dispute resolution procedure.</p> <p>CCR Title 19, Section 2780.1</p>	<p>By December 13, 2006, the CUPA shall develop a CalARP dispute resolution procedure that addresses all of the elements of Title 19, 2780.1.</p>
8	<p>The CUPA is not ensuring that all businesses include in their business plans emergency plan/procedures for:</p> <p>Identification of areas of the facility and mechanical or other systems that require immediate inspection or isolation because of their vulnerability to earthquake related ground motion.</p> <p>HSC, Chapter 6.95, Section 25505(a)(2) CCR Title 19, Section 2731(e)</p>	<p>During the evaluation, the CUPA drafted language to include this requirement in their business plan boiler plate package provided to business to utilize for developing business plans. The CUPA will send Cal/EPA a copy of the revised boiler plate package. The CUPA will begin ensuring that all businesses address such areas and mechanical or other systems in their business plans during the next inspection of the businesses.</p>
9	<p>During the oversight inspection, CUPA staff was not aware of Large Quantity Generator standards such as tank integrity and secondary containment assessment requirements, biennial reporting, and Source Reduction requirements. During the file review, it was observed that one facility (Biosearch Tech) was a LQG and the Source Reduction requirement was mistakenly identified as non applicable.</p> <p>CCR, Title 27, Section 15260(c) and 15260(d)(3)(B)</p>	<p>By March 2007, the CUPA shall ensure that staff receives training on the requirements for LQG's vs. SQG's. The CUPA should update their inspection checklist to include the added requirements for LQGs. The annual CUPA Conference usually offers Hazardous Waste Generator and Tiered Permitting Inspector training courses. The California Compliance School training offers hazardous waste training modules geared specifically for SQG's, LQG's, Tiered Permitting, and recycling standards. The CUPA is also planning amend their checklist to address these areas.</p>

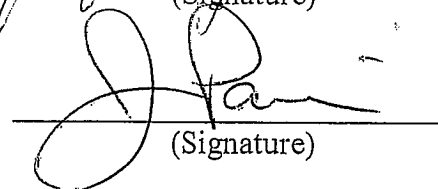
CUPA Representative

Michael Frost
(Print Name)


(Signature)

Evaluation Team Leader

John Paine
(Print Name)


(Signature)

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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section simply address those areas not specifically required of the CUPA by regulation or statute and are provided for continuous program improvement only.

1. **Observation:** The Self-Audit Report meets all the required elements, using both a checklist and narrative type of format. This helps the CUPA establish long term goals to ensure the Unified Program is effectively and efficiently being implemented.

Recommendation: Compilation of the annual Self-Audit Report could be streamlined by eliminating the checklist format since several of the questions within the checklist do not apply to this CUPA.

2. **Observation:** The CUPA is regulating businesses, such as agricultural handlers, marinas, schools, state agencies, and service stations, consistently by conducting routine inspections, issuing permits, and providing other technical assistance.
3. **Observation:** Each inspector conducts UST facility inspections within their district. In general the UST inspections are conducted within the required inspection frequency, except for those facilities in the City of San Rafael, which the CUPA recently incorporated into their program. With the added new staff, it appears that the required inspection frequency will be maintained by the CUPA for these newly acquired UST facilities. The CUPA's UST program appears to meet the overall requirements, but, improvement is needed in some areas. Updating of program forms, informational handouts, permit applications, etc. is necessary to meet current requirements. The inspection and enforcement program is the key to compliance, and needs to be improved. The CUPA acknowledges this, and is re-writing their inspection and enforcement plan. Use of Red-Tag for UST's should be incorporated into this plan. All UST inspectors are ICC certified.
4. **Observation:** The UST inspection checklist is basic in nature, and does not identify all of the elements that the inspector reviews at the site. The Significant Operational Compliance (SOC) items are not indicated on the checklist.

Recommendation: The SWRCB encourages the CUPA to improve the inspection checklist to be more comprehensive and to be inclusive of more compliance items. Identify the SOC items on the checklist. This will make compliance determination easier for tracking purposes.

5. **Observation:** The plot plans, or Owner/Operator Identification forms were not found in the UST files, but found in the HM files. Unless the HM file is taken when only the UST inspection is conducted, inspector cannot verify that it is correct.

Recommendation: Place a copy of the plot plan and Owner-Operator Identification forms in the UST file to make review of these items easier when conducting a UST, only, inspection.

6. **Observation:** During the UST oversight inspection, it was noted that forms and monitoring and response plans, and plot plan were current in the file according to the checklist, but, these items were not checked on-site to determine if they were the same as the ones in the file.

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Recommendation: Check that the forms, and monitoring and response plans, plot plans, etc. are kept on site, and that they are the same as the approved version in the file. It would be helpful to separate submittal items and items required on-site as separate violations on the checklist.

7. **Observation:** When reviewing the files, inspection reports with violations were vague in nature, and did not give a clear picture of the violation, or what was needed for correction.

Recommendation: Provide guidance to inspectors in order to improve report-writing skills and encourage inspectors to take pictures and to fully describe/document the violation. For violation correction, be as detailed as possible to describe what is needed for the corrective action.

8. **Observation:** The CUPA has divided the Marin County into four (4) districts. Each inspector has a district and is responsible for all CUPA activities in that district. This proves effective and efficient for travel time and knowledge of the area. The CUPA rotated districts as of July 1, 2005 so "new eyes" are looking at the districts. The CUPA tracks inspection data through CUPA DMS. The CUPA DMS data entered allows for reports to be issued for:

- Inspections overdue
- Future Inspections
- Completed Inspections
- Missing Scheduled Inspections
- Inspections by Program
- Violations Due
- Inspections Hours Summaries
- Program Last Inspection Date

These reports can be queried by inspector, district, dates, etc. to assure inspection frequencies are being met.

Recommendation: Periodically monitor data to determine if required inspection frequencies are being met.

9. **Observation:** During the CUPA oversight inspection the CUPA identified minor violations (open antifreeze container and unlabeled used oil container) that were corrected during the inspection. The CUPA did not document that the violations were corrected in the inspection report.

Recommendation: List all violations on the inspection reports regardless if the violation is corrected or not corrected prior to completing the inspection. Complete the enforcement policy and procedures, for this will lay the foundation for enforcement mechanisms for the CUPA to utilize and ensure follow-up and return to compliance. Documenting the violation correction establishes a history of the violation, should this become a recalcitrant violation.

10. **Observation:** Marin County is not a heavy industrial area like some of its neighboring counties. As a result, the county has a smaller number of facilities that handle or did handle thresholds of

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regulated substances that might require those facilities to comply with the Federal and/or California Accidental Release Prevention Programs. In 1998 and the years after, the CUPA conducted site visits and established communications with these facilities. As a result of these activities, facilities have either changed from using a less hazardous regulated substance (i.e. chlorine gas to liquid sodium hypochlorite) or their regulated substances (i.e. propane for heat or selling for retail) meet the program exemptions dropping the facilities out of the program. One facility (North Marin Water District Stafford Lake Treatment Plant) removed their chlorine gas due to constructions of a new plant and modified plant. This facility completed their construction and submitted a RMP on June 13, 2006. The CUPA has initiated their completeness review and listed in several news papers a public notice of receipt of the RMP. This facility is a program level three (3) stationary source. The review process period is two (2) years/24 months.

- 11. Observation:** The CUPA has general complaint procedures; however it appears that procedures are not consistently being followed. The outcome of DTSC referred complaints was not located. Tracking procedures for complaints that come in from the public and other agencies are not being tracked consistently.

Recommendation: The CUPA should develop standard tracking procedures to ensure that complaints are appropriately addressed.

- 12. Observation:** The 2005/2006 Annual Inspection Summary Report identifies 502 hazardous waste generators. A print up of active EPA I.D. numbers in Marin County identified 988 facilities having an active EPA I.D. number. This data was obtained from DTSC's Hazardous Waste Tracking System. CUPA staff mentioned that they are having problems with their password access to the HWTS.

Recommendation: The CUPA should cross check their existing hazardous waste facility data to the print out of active facilities with EPA I.D. numbers to capture additional hazardous waste generators. DTSC will provide you with the contact person who can reissue passwords to existing users.

- 13. Observation:** The SOP for proper closure of Tiered Permitting facilities does not identify what the CUPA procedures will be to oversee PBR closure.

Recommendation: Procedures shall be added to the existing SOP that specifically addresses what procedures the CUPA will implement when a PBR facility goes through closure.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA has developed an outstanding new hire training program. The training program includes written procedure highlighting all the training requirements for new employees. The written procedure identifies 12 subject areas of focus and requires new staff to have a minimum of 100 hours of training within the subjects. Additionally, the lead inspector developed homework/tests for the new staff, and the inspectors would discuss the assignments during weekly staff meetings.
2. The CUPA's approach in absorbing the Unified Program in the City of San Rafael has turned a challenging and frustration transition into a smooth transition for the businesses. The customer service, educational outreach, and technical assistance efforts of the CUPA are comforting to the businesses. The CUPA's primary challenge has been transiting the City of San Rafael businesses into the County programs. The transition has been very difficult. Files were virtually non existence. Nearly 70% of the businesses have never been inspected or inspected many years ago. Many of these business where unaware that they were not in compliance. Many were not conducting the business activities that are required. The CUPA's approach to developing solid long term relationships with the City of San Rafael businesses is remarkable. Additionally, the City of San Rafael businesses experienced a fee increase since the County's fees are higher. To help ease the transition in the City of San Rafael, the CUPA is concentrating on educating and providing technical assistance to these businesses, while ensuring compliance. Part of the educational outreach includes conducting introductory site visits and consultation visits lasting up to 2 hours. During these visits the CUPA inspectors are explaining and walking businesses through the laws and regulations to build a positive working relationship with the businesses. The inspectors are also explaining their inspection process so businesses are aware of and are prepared for an inspection.
3. The CUPA has expanded their data management system (CUPA DMS) capabilities to allow business plan information 24/7 availability to Marin County Environmental Health HazMat team during emergency response to hazardous material spills or releases. The CUPA is working out the bugs to include availability to Fire Departments, as well.
4. The CUPA has a SOP on how to respond to public information requests. This SOP includes procedures for removing confidential information (i.e. maps of inventory disclosed) and for handling and providing trade secrets for review.
5. The CUPA uses their data management system, CUPA DMS, to issue consolidated invoices and permits since 1998. Permit renewal invoices are printed and mailed at one time. Permits are issued when the CUPA receives notification from Central Collection that the fee has been paid and the CUPA verifies they have received all necessary paperwork. This process has become more routine and efficient each year as knowledge of how to handle specific problems increases. The annual and triennial no change certification form for facility business plans is mailed to businesses together with the permits/invoices for owner/operators to fill out and sign if there are no changes to their disclosed inventory or other elements of the business plan.

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6. The CUPA manager and staff are performing at a high level after dealing with staffing and San Rafael transition issues. Staffing for the CUPA has been in flux over the last couple of years. The CUPA hired two new staff in February and March. Both new staff has stepped into the program nicely, obtaining their ICC certification for UST inspections, which is truly remarkable. Training their new staff has been the CUPA's focus for the past several months. The CUPA Manager is leading the charge, and the senior staff spent numerous hours training and mentoring the new inspectors.
7. The CUPA's process for tracking UST-compliance is commendable. The CUPA is tracking significant operational compliance (SOC) after each inspection, documenting the facility name and compliance with leak detection and prevention requirements. This information is necessary for compiling the UST quarterly report 6.